IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.79 OF 2004

Sou.Bhagubai Sitaram Jagtap ...Applicant

Versus

Sou Sindhu Tukaram Ambike & Ors. ...Respondents

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Mr.V.B.Tapkir for Applicant.

Mr.P.B.Shaligram for Respondents 1 & 2.

Mrs.G.P.Mulekar, A.P.P. for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 14, 2005.

P.C.

1. Heard Counsel for the parties. I am in agreement with the objection taken on behalf of the Respondents 1 & 2 that the case on hand does not merit exercise of revisional jurisdiction. Counsel for Respondents 1 & 2 has rightly placed reliance on the decision of the Supreme Court in **Kishan Swaroop vs. Govt. of NCT of Delhi reported in AIR 1998 SC 990.**

2. To get over this position, Counsel for the Applicant would contend that the Appeal Court has committed manifest error on the point of law while holding that the complaint filed by the Applicant was belated and suffered from latches. In the first place, this submission cannot be accepted. In any case, the Appellate Court has not only considered the matter from that perspective, but also decided the appeal on merits of the case. From the discussion in Paragraph 14, it is clear that the Appeal Court has proceeded to examine the matter on the basis that no eye-witness to show that the accused were seen taking away articles from the house, was examined by the prosecution.

3. Counsel for the Applicant, however, contends that the property was seized from the accused which is a strong circumstance. Nevertheless, the case would be one of circumstantial evidence and not a case of direct evidence. Recovery of property from the accused, in that sense, may be a strong circumstance, but that by itself, will not be sufficient to bring

home the guilt. The Appeal Court has considered even this aspect of the matter, as can be seen from the discussion at page 71 of the paper book in Para 14 to hold that the contents of recovery panchnama are not consistent with the prosecution case. That opinion is on the basis of appreciation of the evidence on record.

4. If it is so, it is not a case of manifest error on the point of law, which may warrant interference in exercise of revisional jurisdiction. In other words, no interference in revisional jurisdiction is warranted. Hence, rejected.

A.M.KHANWILKAR, J.